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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Daniel Fellner,
Plaintiff
v.
Travel 4 All Seasons LLC
Defendant

Case No. 2:19-cv-01719-DJH

**PLAINTIFF'S NOTICE
CONCERNING JOINT
REPORT OF SETTLEMENT
DISCUSSIONS (DOC. 36)**

Plaintiff Daniel Fellner, by and through undersigned counsel, hereby provide notice of correction to the Joint Report of Settlement Discussions filed in this case at Doc. 36 (“Report”). In the Report, the parties jointly report that they had engaged in settlement discussions which were not fruitful, stating specifically that “good faith settlement discussions by telephone and email [were conducted] but were unable to resolve this matter.” (Doc. 36 at 1:18-19.) Mr. Fellner, Plaintiff herein, was never informed by Richard Liebowitz that settlement negotiations were ongoing. As such, Plaintiff believes that due to Mr. Liebowitz’s apparent misconduct in, *inter alia*, failing to communicate any settlement offer from Defendant to him in violation of ethical rules¹ or that settlement negotiations

¹ See, e.g., ER 1.4, Comment 2 (stating that “a lawyer who receives from opposing counsel an offer of settlement in a civil controversy must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or reject the offer”) (citing ER 1.2(a) [“(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client’s decisions”]).

were even ongoing, the settlement discussions were, unbeknownst to Defendant, not done in “good faith.” As of the date of the Report (Dec. 6, 2019), Mr. Fellner was open, and continues to be open to, settlement of this matter. The undersigned will attempt to rectify this situation by, *inter alia*, attempting to negotiate a settlement in good faith with Defendant by (1) communicating with Defendant and determining what the parties’ settlement position was as of the date of the Report and (2) attempting to settle the case at this stage.

8 RESPECTFULLY SUBMITTED this 3rd day of August, 2020.

MotoSalas Law, PLLC

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Proposed Attorney of Record for Plaintiff Daniel Fellner

25 concerning the objectives of representation and, as required by ER 1.4, shall consult with
26 the client as to the means by which they are to be pursued. A lawyer may take such action
27 on behalf of the client as is impliedly authorized to carry out the representation. A lawyer
28 shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer
shall abide by the client's decision, after consultation with the lawyer, as to a plea to be
entered, whether to waive jury trial and whether the client will testify."].)

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August, 2020, I electronically transmitted the foregoing document and all exhibits thereto to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants of record in this matter.

6 | By: /s/ Kenneth M. Motolenich-Salas